

F 2554
.B6 B7
Copy 2

Brazil, Treaties, etc., 1902-1906 (Rodrigues Alves)

Brazil and Bolivia

Boundary Settlement

Treaty

for the

Exchange of Territories and Other Compensations

Signed at Petropolis, November 17, 1903

Together with the

Report of Baron Rio Branco

Minister for Foreign Relations of Brazil

,,
,,
,,
,,
,,

The Knickerbocker Press
New York

copy 2

F2554
.B6B7
copy 2

DV Transfer
MAR 11 1920



5-2951

PREFATORY NOTE

THE long-pending question between Brazil and Bolivia, as to their boundaries in the region of the Acre (Aquiry), reached in 1899 an acute stage. Two years later it became still more aggravated, as the result of the grant made by Bolivia to an Anglo-American syndicate of a concession that purported to convey to a foreign company, which was to be incorporated in Europe or in the United States, extraordinary rights, powers, and privileges in the whole of the disputed territory. The Government of Brazil obtained, in February, 1903, a renunciation by the syndicate of all its pretensions, and then entered upon negotiations for the settlement of the territorial question on the broad and comprehensive basis of mutual interest and convenience. These negotiations were brought to a successful close by the signature of a treaty at Petropolis, on November 17, 1903. This treaty was subsequently ratified by the Brazilian Congress and by the Congress of Bolivia. In the Congress of Brazil the vote in favor of ratification stood, in the Senate, 35 to 9; in the Chamber of Deputies, 119 to 13. The ratifications were exchanged on March 10, 1904.

TABLE OF CONTENTS.

	PAGE
I. MESSAGE OF THE PRESIDENT OF BRAZIL, SUBMIT- TING TO THE CONGRESS THE TREATY SIGNED AT PETROPOLIS, NOVEMBER 17, 1903 . . .	I
II. REPORT OF BARON RIO-BRANCO, MINISTER FOR FOREIGN RELATIONS OF BRAZIL . . .	9
III. MAPS.	

I.

MESSAGE FROM THE PRESIDENT OF THE
UNITED STATES OF BRAZIL.

To the Members of the National Congress:

I submit for your consideration and approval a treaty concluded on November 17th last by the Plenipotentiaries of Brazil and Bolivia, together with a Report made to me by the Minister of State for Foreign Relations, accompanied by several documents.

If this compact meets with your approval, I beg that you will at the same time authorize the Government to contract the loans necessary for its execution, as well as to adopt measures for the provisional administration of and the collection of the revenues in the territories which are recognized as Brazilian.

FRANCISCO DE PAULA RODRIGUES ALVES.

RIO DE JANEIRO, December 29, 1903.

THE TREATY.

The Republic of the United States of Brazil and the Republic of Bolivia, animated by the desire to consolidate perpetually their ancient friendship by removing all grounds of future disagreement, and wishing at the same time to facilitate the development of their relations of commerce and good neighborhood, have agreed to conclude a treaty for the exchange of territories and other compensations, in accordance with the stipulations of

2 Brazil and Bolivia Boundary Settlement

Article V of the Treaty of Friendship, Boundaries, Navigation, and Commerce, of March 27, 1867,¹ and to that effect have named their Plenipotentiaries, to wit:

The President of the Republic of the United States of Brazil, *José María Da Silva Paranhos do Rio-Branco*, Minister of Foreign Relations, and *Joaquim Francisco de Assis-Brasil*, Envoy Extraordinary and Minister Plenipotentiary in the United States of America; and

The President of the Republic of Bolivia, *Fernando E. Guachalla*, Envoy Extraordinary and Minister Plenipotentiary on a Special Mission to Brazil and Senator of the Republic, and *Claudio Pinilla*, Envoy Extraordinary and Minister Plenipotentiary in Brazil and lately appointed Minister of Foreign Relations;

Who, after having exchanged their full powers, which were found in good and due form, have agreed on the following articles:

ARTICLE I.

The frontier between the Republic of the United States of Brazil and the Republic of Bolivia shall be established as follows:

1. Starting from latitude 20° 08' 35" south, opposite the outlet of Bahia Negra in the Paraguay River, the boundary line shall ascend that river to a point on the right bank nine kilometers distant in a straight line, from Fort Coimbra; that is, approximately in latitude 19° 58' 05" and longitude 14° 39' 14" west of the observatory of Rio de Janeiro (57° 47' 40" west of Greenwich), according to the frontier map drawn up by the Mixed Boundary Commission of 1875, and shall continue, from this point, on the right bank of the Paraguay, by a geodetic line which shall meet another point 4 kilometers distant, in the exact location of 27° 01' 22" northeast from the so-called

¹ See Note A, *infra*, p. 35.

“Marco do fundo da Bahia Negra,” the distance of 4 kilometers being accurately measured on the present frontier, so that this point shall be approximately in $19^{\circ} 45' 36''$. 6 of latitude and $14^{\circ} 55' 46''$. 7 of longitude west of Rio de Janeiro ($58^{\circ} 04' 12''$. 7 west of Greenwich). Thence it shall proceed in the same direction, as determined by the Mixed Commission of 1875, as far as latitude $19^{\circ} 02'$, and then to the east, along this parallel to the brook Conceição, which it shall follow to its mouth on the southern bank of the outlet of the Lake Caceres, also called the Tamengos River. It shall ascend along this outlet to the meridian which crosses Tamarindeiro Point, and thence to the north along the meridian of Tamarindeiro to latitude $18^{\circ} 54'$, continuing along this parallel to the west till it meets the present boundary line.

2. From the point of intersection of parallel $18^{\circ} 54'$ with the straight line which forms the present boundary line, it shall proceed in the same direction as the present frontier line to latitude $18^{\circ} 14'$, and along this parallel it shall run, to the east, to the outlet of the Mandioré lagoon, which it shall ascend, crossing the lagoon in a straight line to a point on the old boundary line equally distant between the two present landmarks; thence along this old frontier line to the landmark on the southern bank.

3. From the landmark on the northern shore of Mandioré lagoon it shall continue in a straight line in the same direction as the present boundary line to latitude $17^{\circ} 49'$, and along this parallel to the meridian of the extreme southeastern part of Gahiba lagoon; thence following this meridian to the lagoon, and crossing the latter in a straight line to a point on the old boundary line equally distant from the two existing landmarks, and thence following the old frontier line to the entrance of the Canal Pedro Segundo, also recently called Pando River.

4 Brazil and Bolivia Boundary Settlement

4. From the southern entrance of the Pedro Segundo Canal, or Pando River, to the confluence of the Bení and Mamoré, the boundary shall be the same as established in Article II of the Treaty of March 27, 1867.¹

5. From the confluence of the Bení and Mamoré rivers, the frontier shall follow the course of the Madeira River to the mouth of the Abunan, its tributary on the left bank, and shall ascend the Abunan to latitude $10^{\circ} 20'$; thence it shall continue westward along the parallel of $10^{\circ} 20'$ to the Rapirran River, following this river to its main source.

6. From the main source of the Rapirran, the line shall follow the parallel of that source westward till it meets the Iquiry River; thence along this river to its source, and from this point to Bahia Creek it shall follow the highest elevations of land, or a straight line, as the Boundary Commissioners of the two countries shall deem most convenient.

7. From the source of Bahia Creek it shall follow this stream to its confluence with the Acre or Aquiry River on the right bank, and thence along this river to its source, if the latter is not more than 69° west of Greenwich.

(a) In the case supposed, that is, if the longitude of the source of the Acre is less western than the one indicated, the frontier shall follow the meridian of the source to parallel 11° , and thence it shall continue westward, along the latter parallel until it meets the boundary line with Peru.

(b) If, as seems certain, the Acre River should cross longitude 69° west of Greenwich and run now north then south of parallel 11° , more or less following the latter, the bed of the river shall form the dividing line to its source, and it shall continue along its meridian to parallel 11° , and thence westward along the latter parallel to the

¹ See Note A, *infra*, p. 35.

frontier of Peru; but if, west of the said longitude 69° , the Acre should run always south of parallel 11° , the frontier line shall be continued from this river along longitude 69° to its intersection with parallel 11° , and thence along the latter parallel till it meets the frontier of Peru.

ARTICLE II.

The transfer of territories resulting from the demarcation described in the preceding article includes all the rights pertaining thereto and the responsibility of maintaining and respecting the real rights acquired by citizens and foreigners in accordance with the principles of the civil law.

All claims arising out of administrative acts or of things taking place in the exchanged territories shall be examined and decided by an arbitration tribunal, which shall be composed of one representative from Brazil, one from Bolivia, and a foreign minister accredited to the Brazilian Government. The third arbitrator shall be president of the tribunal, and shall be chosen by the Two High Contracting Parties soon after the exchange of the ratifications of the present treaty. The tribunal shall sit for one year in Rio de Janeiro, and shall begin to transact business within six months after the exchange of the ratifications. Its business shall be: 1. To accept or reject claims; 2. to fix the amount of indemnity; and 3. to designate which of the two Governments shall pay the indemnity.

Payments may be made in special bonds at par, bearing 3 per cent. interest, the sinking fund being 3 per cent. per annum.

ARTICLE III.

As there is no equivalence in the areas of the territories exchanged between the two nations, the United States of

6 Brazil and Bolivia Boundary Settlement

Brazil shall pay an indemnity of £2,000,000 sterling, which the Republic of Bolivia accepts with the intention of using the same mainly in the construction of railways or other works tending to improve the communications and develop commerce between the two countries.

The payment shall be made in two installments of £1,000,000 each, the first installment to be paid within three months after the exchange of the ratifications of the present treaty, and the second on March 31, 1905.

ARTICLE IV.

A Mixed Commission, appointed by the two Governments within one year from the date of the exchange of the ratifications, shall proceed to the demarcation of the frontier as stipulated in Article I, beginning its work within six months after its appointment.

Any controversy arising between the Brazilian and Bolivian Commissions, which cannot be resolved by the two Governments, shall be submitted to the arbitral decision of a member of the "Royal Geographical Society of London," chosen by the President and members of the council of the same.

If the boundary commissioners appointed by one of the High Contracting Parties fail to be present at the place and time fixed for beginning the work, the commissioners of the other shall proceed by themselves to the demarcation, and the results of their operations shall be binding on both.

ARTICLE V.

The Two High Contracting Parties shall conclude within the term of eight months a treaty of commerce and navigation, based upon the principle of the most ample freedom of transit and river navigation to both countries, a right which they shall enjoy perpetually, on condition of

their respecting the fiscal and police regulations established, or which may hereafter be established, in the territory of each. These regulations shall be as favorable as possible to navigation and commerce and shall be as nearly as possible uniform in the two countries. It is understood and declared, however, that this stipulation does not include the navigation from port to port in the same country or the coastwise trade by the rivers, which shall continue subject in each of the two States to its respective laws.

ARTICLE VI.

In conformity with the stipulations of the preceding article and for the dispatch in transit of articles of export and import, Bolivia shall have the right to keep custom-house agents at the Brazilian custom houses of Belém, of Para, Manaus, and Corumbá, and at the other custom-house agencies which Brazil may establish on the Madeira and the Mamoré or in other localities on the common frontier. Reciprocally, Brazil may maintain custom-house agents at the Bolivian custom house of Villa Bella, or at any other custom-house agency which Bolivia may establish on the common frontier.

ARTICLE VII.

The United States of Brazil binds itself to build on Brazilian territory, by itself or by a private company, a railway to extend from the port of Santo Antonio, on the Madeira River, to Guajará-Mirim, on the Mamoré, with a branch road running through Villa-Murtinho, or some other point near it (in the State of Matto-Grosso) to Villa Bella, at the confluence of the Bení and Mamoré. Brazil shall endeavor to finish this road within four years, and both countries shall have the use of it with a right to the same privileges and rates.

8 Brazil and Bolivia Boundary Settlement

ARTICLE VIII.

The Republic of the United States of Brazil declares that it will negotiate directly with the Republic of Peru concerning the boundary question relative to the territory comprised between the source of the Javary and parallel 11° , and will endeavor to reach a friendly solution of the dispute without imposing responsibility upon Bolivia in any event.

ARTICLE IX.

Should differences arise between the two countries as regards the interpretation and execution of the present treaty, they shall be submitted to arbitration.

ARTICLE X.

The present treaty, after it has been approved by the Legislative power of each of the two Republics, shall be ratified by the respective Governments, and the ratifications shall be exchanged in the city of Rio de Janeiro as soon as possible.

In faith whereof, we, the Plenipotentiaries above named, sign the present treaty, in duplicate copies, each in the Portuguese and Spanish languages, and thereto affix our seals. Done in the city of Petropolis on the seventeenth day of November, in the year one thousand nine hundred and three.

(L. S.)	RIO-BRANCO
(L. S.)	J. F. DE ASSIS-BRASIL
(L. S.)	FERNANDO E. GUACHALLA
(L. S.)	CLAUDIO PINILLA

II.

REPORT OF THE MINISTER FOR FOREIGN RELATIONS OF BRAZIL.

DEPARTMENT OF FOREIGN RELATIONS,
RIO DE JANEIRO, December 27, 1903.

To the President of the Republic:

I have the honor to place in Your Excellency's hands an authenticated copy of the treaty of exchange of territories and other compensations, signed in Petropolis on the seventeenth day of November last by the Plenipotentiaries of Brazil and Bolivia.

The first attempts to negotiate a direct agreement were made by me, a short while after I assumed the direction of the Department of Foreign Relations, on the third day of December of last year. Authorized by Your Excellency, I then proposed to purchase the Acre territory. This proposition was at once rejected. Afterwards I endeavored to negotiate on the basis of an unequal exchange of territories, supplemented by other compensations. The military expeditions of Bolivia against our citizens in Acre interrupted the negotiations. Brazil having decided upon the military occupation of the territory to the north of parallel $10^{\circ} 20'$, which only then was officially declared to be in dispute, the negotiation of the preliminary agreement for a *modus vivendi* in Acre was begun. This negotiation was brought to an end on March 21st. By virtue of the agreement which was then

signed in La Paz,—and which I negotiated by telegraph, assisted by Mr. Eduardo Lisboa, our worthy representative in Bolivia,—the Brazilian troops continued to occupy the territory in dispute, and the Brazilian military governor was authorized to send detachments to the south of that parallel, in territory recognized as Bolivian and within agreed limits, with the special object of preventing conflicts between the armed Acreans and the Bolivian troops during the term for which hostilities were by common accord to be suspended. Meanwhile, the governor popularly proclaimed by the Acreans was to continue in the exercise of his authority to the south of said parallel. Our intervention was designed, not to repress the insurrection, but to protect our citizens and maintain the *status quo* while we were discussing the principal point, which was an agreement capable of removing forever the difficulties which the two countries had encountered since 1899.

On July 1st, Doctor Fernando Guachalla, Envoy Extraordinary and Minister Plenipotentiary of Bolivia on a special mission, delivered to Your Excellency his credentials. As stated in his full powers and in those of Mr. Claudio Pinilla, who at the time was Envoy Extraordinary and Minister Plenipotentiary here, accredited in permanent mission, these two distinguished diplomats were commissioned to negotiate with us on the basis of an equitable exchange of territories, or, this being impossible, on that of arbitration for the interpretation of Article II of the treaty of 1867. The idea of a compensation in money, on which I continued to insist, was rejected anew, in March, by the Bolivian Government. It was only in August, as it appears, that the instructions of the Bolivian Plenipotentiaries were enlarged.

As I desired the valuable aid of the intelligence, capacity and patriotism of Senator Ruy Barbosa and Mr. Assis-

Brasil, Your Excellency, by decrees of July 17th, associated them with me as Plenipotentiaries, in order that we together should negotiate with the Representatives of Bolivia.

On July 22d we three agreed upon the proposition that we were to present to our Bolivian opponents, and on the following day it was handed to them by me in Petropolis. We asked from Bolivia the territories which by the present treaty she recognizes as Brazilian, and we offered them in exchange:

1. The small triangular territory lying between the Madeira and the Abunan, the area of which, reckoned then hastily, we supposed to be 3500 square kilometers;
2. An enclosure of two hectares on the right margin of the Madeira near Santo Antonio, so that she might establish there a customs post;
3. An indemnity of one million pounds sterling;
4. The construction in Brazilian territory, from the first waterfall of the Mamoré River, which is that of Guajara-Mirim, to that of Santo Antonio, in the Madeira River, of a railway, granting to Bolivia the facilities specified in the treaty concluded at Rio de Janeiro on May 15, 1882, which never came into force.

The offer of the two hectares in Santo Antonio was intended to facilitate our opposition to the cession of the two banks of the Madeira above Santo Antonio. In October we were enabled, though with difficulty, to withdraw that offer, by showing the value of the other compensations subsequently offered or granted, and demonstrating that a custom house thus detached and isolated could not be of any practical service to Bolivia.

Before July 22d, I expressed to my Plenipotentiary colleagues of Brazil the opinion that, in order to come to a direct agreement, it would be necessary to make to Bolivia some concession or concessions on the lower Brazilian

Paraguay, in order to carry out the intention of the Imperial Government in 1867, which was to give her in that region ports which might be utilized for her foreign commerce. I also acquainted them with the fact that a protocol was signed in 1896 embodying the same idea. It was thought expedient, however, not at once to advance from the initial proposition to the extreme of the concessions which we could reasonably make, and for this reason we reserved till a later time the making of that offer, or the acceptance of the demand which might be presented to us in a similar sense.

The proposition above summarized was on the next day, July 24th, promptly declared unacceptable by the Bolivian Plenipotentiaries. On August 13th, I received the counter proposition formulated by them. It proposed a modification of frontier from which the following would result:

1. To the south of the oblique line running from the Javary to the Bení, scarcely one third of the territory claimed by Brazil would be left to her; that is to say, the part which lies to the west of the Iquiry River, being bounded on the south by the parallel which intersects the mouth of the Xapury, an affluent of the left bank of the Acre, and then by the course of the Xapury, and, to the west, by the meridian of longitude of 70° west of Greenwich.

2. There would pass to the possession of Bolivia:

On the north (in the States of Amazonas and Matto-Grosso);

(a) The two banks of the Madeira above or to the south of the mouth of the Jamarý, comprising two zones bounded on the west by a straight line drawn from the parallel of the mouth of this affluent to the confluence of the Rapirran and the Iquiry, and, to the east, by another straight line drawn from the mouth of the same Jamarý River to the confluence of the Mamoré;

To the south (Matto-Grosso) the territories lying:

(b) To the west of a line drawn from the so-called "Marco do fundo da Bahia Negra" to the outlet of the Caceres Lagoon;

(c) To the west of the Paraguay River, which would continue to be the frontier, from this outlet to the confluence of the Jaurú;

(d) To the west of the Jaurú and to the south of its affluent, the Bagres; to the south and west of the upper Guaporé to the point at which it receives, on its left bank, the Verde River, thus giving to Bolivia all the land washed by the Aguapehy, an affluent of the Jaurú, and by the Alegre and Verde, tributaries of the Guaporé.

The Bolivian Ministers demanded, besides, that, the reciprocal advantage of the Madeira-Mamoré railroad being acknowledged, and the territories which their country was ready to transfer being undoubtedly richer and more fruitful than those which they demanded from Brazil, we should engage to construct in territory which would pass to Bolivia—from Santo Antonio in the Madeira to Guajará-Mirim in the Mamoré—the railroad in question, and that we should yield it in full title to Bolivia.

This counter proposition could not but be, as it was, declined by me without any hesitation and without consultation with my colleagues.

Meanwhile Mr. Assis-Brasil and I began to exchange ideas with the Bolivian Plenipotentiaries in several private conversations which took place in Petropolis, and to endeavor to find a basis on which we might come to an understanding, before entering upon the formal conferences in which Mr. Ruy Barbosa was to participate, since we could not reasonably ask him to withdraw from his labors in the Senate in order to take part in such long and wearisome preliminaries. I was careful, however, to keep him advised of everything of importance that happened, and always asked his opinion.

The Bolivian Plenipotentiaries having at first insisted that we should grant them a strip of land five leagues wide along the right bank of the Madeira from the Mamoré to the Santo Antonio, and afterwards that we should grant a strip of the same width on the left bank, I requested, on both occasions, a meeting of the Council of Ministers in order to ascertain whether such propositions, the first of which precluded any pecuniary indemnity, ought or ought not to be accepted in an extreme case, that is to say, if their rejection should cause the rupture of the negotiations for a direct agreement. When the second point was examined,—the proffered indemnity having then been increased by me to two million pounds sterling, and a modification having been proposed on the Matto-Grosso frontier, from Bahia Negra to the source of the brook Conceição, which would result in a transfer to Bolivia of 2300 square kilometers, mostly marshy land,—Senator Ruy Barbosa asked, in a letter dated October 17th, that he should be relieved and insisted upon it, thinking, no doubt, because I had not sufficiently explained myself, that the Bolivian Plenipotentiaries were not amenable to concessions, in which case he preferred arbitration. The eminent Brazilian then withdrew, much to the regret of Your Excellency, of myself, and of Mr. Assis-Brasil, who thus saw ourselves deprived of the valuable co-operation and loyal advice which up to that time had been given us.

Mr. Assis-Brasil and I continued the negotiations, and on us alone falls the responsibility of the agreement concluded with the representatives of Bolivia.

It seems to me pertinent here to make an explanation.

In the treaty it was not expressly declared what were the territories exchanged, but the lines of the new frontier were simply described with all possible minuteness and

clearness. We thus conformed to the practice generally observed in the framing of agreements of this nature. The mutual cessions further explained in this report can be well verified only by carefully reading Article I, so far as it relates to the slight modifications in our boundary of Matto-Grosso (paragraphs 1 to 4), in connection with a copy of the map drawn up by the Brazilian-Bolivian Mixed Commission of 1875; and, so far as it relates to the Amazon region (paragraphs 5 to 7), in connection with another map showing the part comprised between $6\frac{1}{2}$ and 12 degrees of south latitude, and 62 and 74 degrees of longitude west of Greenwich. Of the first of these maps a reduction was made; the second one was drawn up, after a careful examination of the best documents, by Rear-Admiral Guillobel.

In paragraph 7, of the same Article I, several hypotheses are established regarding the principal course of the upper Acre. Our only object in agreeing to this was to satisfy the Bolivian Plenipotentiaries. The Brazilian Plenipotentiaries had asked that the boundary, from the confluence of the Bahia Creek to the west, should follow the bed of the river Acre to its principal source, and thence the parallel of that source to the point where it strikes Peruvian territory. The Bolivian Plenipotentiaries feared that, on running the line, the Mixed Commission might adopt, as the true upper Acre, one of the rivers now considered as southern affluents (the Verde or the Paragas River), so that the new boundary which we desired to locate in the neighborhood of parallel 11° would be carried much to the south. To meet the desire of the Bolivian Plenipotentiaries we established those hypotheses, but the Brazilian Plenipotentiaries are convinced that the boundary will in fact follow the upper course of the Aquiry or Acre which runs now to the south now to the north of parallel 11° , as shown by the plan made by

W. Chandless in 1865, and published, with his "Explanatory Notes," in the *Journal of the Royal Geographical Society* of London, Volume xxxvi, 1867.

The so-called territory of Acre, or more correctly Aquiry, the principal cause and object of the present agreement, is, like all the immense region watered by the southern affluents of the Amazon to the east of the Javary, a geographical dependency of Brazil. Easy access to these territories can be had only by the fluvial waters of the Amazon system, and for this reason they were long ago discovered and exclusively peopled and rendered valuable by our citizens. To the south of the geodetic line, drawn from the confluence of the Bení with the Mamoré to the source of the Javary, there are now more than 60,000 Brazilians who work on the banks and in the neighboring forests of the upper Purús and its tributaries, among which are the Acre, the Hyuaco or Yaco, the Chandless, and the Manoel Urbano, and, in those of the upper Juruá, including its most southerly affluents, the Moa, Juruá-Mirim, Amonea, Tejo, and Breu.

In the territory of upper Acre, to the south of Cauquetá, there are about 20,000 inhabitants of Brazilian nationality, principally engaged in the industry of gathering India rubber. Such is the calculation—and it accords with that of other persons who are familiar with these regions—which I find in a recent official report of a Bolivian official who resided there by commission of his Government.

When in 1867 we negotiated with Bolivia the first boundary treaty, the valleys of the upper Purús and upper Juruá were not peopled, but we had an indisputable right to them in all their extent. The preliminary treaty of 1777 between the Crowns of Portugal and Spain was annulled by reason of the war of 1801 and of the fact that

it was not restored by the peace of Badajoz. There did not exist, therefore, any conventional right; and as we had in fact effectively occupied, since the beginning of the eighteenth century, the right bank of the Solimoes, and had besides controlled the banks of the lower course of its affluents, we had a title which comprised the sources of them all, there being no neighbor that could oppose to us a title based on effective occupation of the upper course. Our right was the same as that which is derived from the occupation of a maritime coast, and which is applied to the valleys of the rivers that flow into it; the right maintained by Monroe and Pinckney in 1805, and later inculcated by Twiss, Phillimore, and nearly all the other modern masters of international law.¹

In the Madeira, the case was different. We possessed all its lower course, the eastern bank of a small section of the Mamoré, and the eastern bank of the Guaporé to its confluent, the Paragahu, and controlled the latter's right bank; but the Bolivians effectively occupied the La Paz River, a tributary of the Bení, which is the upper Madeira.

For the establishment of the boundaries in the treaty of 1867, the basis of the *uti possidetis* was adopted, the basis on which were founded all similar agreements concluded by us with the neighboring republics; and instead of establishing natural or artificial frontiers, following the lines of the *divortium aquarum*, which would leave us in complete possession of all the tributaries of the Solimoes, it was admitted, to the advantage of Bolivia, that the right resulting from the possession or from the spheres of influence of the two peoples could reasonably be determined by the parallel of the confluence of the Bení and Mamoré, that is to say, by that of 10° 20', from that point on the east to the Javary on the west, the source of which was supposed to be in a more southerly latitude. For

¹ See Note B, *infra*, p. 39.

this reason Article II, in its penultimate paragraph, established the boundary along this line parallel to the Equator, and in the next paragraph made use of the expression "line east to west."¹

But as the last paragraph, under the supposition that the source of the Javary was situated "to the north of the line east to west," provides that in that case "the boundary shall run on from the said latitude in a straight line to the principal source of said Javary River," without, however, specifying the starting-point of the second line in said latitude of $10^{\circ} 20'$, the opinion had, since December, 1867, officially prevailed that the boundary ought to follow a line running obliquely to the Equator, from the confluence of the Bení to the source of the Javary, so that the line of the *uti possidetis*, which according to the treaty ran east to west, was displaced to our prejudice, its exact location depending upon the discovery of an unknown point, as the source of the Javary then was. I have read that during the negotiations in La Paz, in the first months of 1867, our Plenipotentiary, Lopes Netto, presented maps, drawn under the direction of Duarte da Ponte Ribeiro, on which the oblique line was drawn, but I do not find any vestige of this in the official correspondence. The oldest of the maps shown to me, on which I found the oblique line, bears the date of 1873. In the atlas *Do Imperio do Brazil*, of Candido Mendes de Almeida, published in 1868, the author having full knowledge of the treaty of 1867, to which he referred in his introduction, the boundary is drawn along the east-to-west line of the $10^{\circ} 20'$ parallel. But, after all, and this is what it is necessary to understand, the Brazilian Government adopted, after the end of 1867, the view which was most favorable to Bolivia.

At that time, when the boundary had not yet been

¹ See Note A, *infra*, p. 36.

completely run, Brazilians began to pass through the upper Purús, upper Juruá, and their tributaries. In 1899, when the Bolivian Government first sought to assert its sovereignty in Acre, the Brazilian population which had in good faith settled there was as numerous as it is at present. Then began the revolt of those Brazilians against the Bolivian rule, and here among ourselves the periodical commotions caused by the events in Acre.

When Your Excellency was inaugurated on November 15th of last year, you found our friendly relations with Bolivia somewhat disturbed, and the questions relating to the Acre territory in an extremely serious and complicated position.

All the immense region above mentioned, lying to the south of a geodetic line drawn from the principal source of the Javary to the confluence of the Bení with the Mamoré, was acknowledged as Bolivian by numerous acts and declarations of the Governments which had succeeded each other in Brazil since 1867, both during the Imperial régime and after the proclamation of the Republic. An Anglo-American syndicate, called the *Bolivian Syndicate*, armed with almost sovereign rights which the Bolivian Government had granted it for the administration, defence, and use of Acre, tried, happily without success, to interest some commercial powers of Europe and the United States of America in the enterprise, which was the first attempt to introduce in our Continent the African and Asiatic system of *chartered companies*.¹

The eminent predecessor of Your Excellency, having failed in all his efforts to secure the rescission of this contract, or at least a satisfactory modification of certain clauses in which he perceived inconveniences and perils

¹ See Note C, *infra*, p. 41.

both for Brazil and for Bolivia herself, had entered on a course of reprisals. To this end he had obtained from Congress, to whose examination it had been submitted, the withdrawal of the treaty of commerce and navigation between the two countries, and had suppressed in our rivers the freedom of transit for exports and imports of Bolivia. In Acre the population, exclusively Brazilian, had since August again been in a state of revolt, having proclaimed its independence of Bolivia with the intention of later asking for the annexation to Brazil of the territory to the north of the river Orton. With the exception of Port Acre, where the Bolivian forces were able to resist till the end of January of this year, all the other points were controlled by the Brazilian insurgents. In Amazonas, the representatives of the *Bolivian Syndicate* were on the point of ascending the Purús, and in fact they shortly afterwards began the voyage in the hope that they might reach Port Acre. In Bolivia, military expeditions were prepared to raise the siege of that place, subdue the Acreans, and give possession to the syndicate. Among us, eminent men in Congress, in the press, and in scientific societies had since 1900 combated the official interpretation given to the treaty of 1867 and had maintained that the stipulated frontier was not the line running obliquely to the Equator, but that of the parallel of $10^{\circ} 20'$. Public opinion, strongly aroused, demanded that the territory comprised between the two lines and the frontier with Peru should be recovered by diplomatic means or by the most energetic measures at the Government's disposal.

Owing to the situation which I have briefly explained, the problems I encountered on assuming the direction of this Department were various and difficult.

The first of these problems proceeded from the sup-

pression of the free commercial transit between Bolivia and foreign countries, through our waterways. France, Germany, England, the United States, and Switzerland protested against it.

Another difficulty might arise from the fact that Brazil had effectually prevented the fulfilment of the obligations of the Anglo-American syndicate, which eventually might hold us responsible for damages and loss.

Public sentiment among us was another element which could not but be taken into consideration. Since my arrival from Europe, I had observed that national feeling was unanimous in favor of our citizens who were fighting in Acre. It was easy to foresee that this sentiment could not fail to increase to such an extent and to assume such proportions that it would be impossible for a government controlled, as ours is, by public opinion, to remain indifferent to the sacrifices which those Brazilians were making in order that they might eventually live under the protection of our flag. How could we reconcile the fulfilment of our duties toward those afflicted compatriots with the steadfast desire not to commit acts of hostility against a friendly government that opposed them?

Finally, the necessity of a radical solution became clearer and imperative as a means of definitively avoiding, both in the interest of Brazil and in that of Bolivia, situations of this nature. This object could not be attained, unless, in addition to the small tract of Acre comprised between the oblique line and parallel $10^{\circ} 20'$, southern Acre also, together with the Xapury and all the vast region to the west, likewise inhabited by Brazilians, should remain in the possession of Brazil.

These four points,—that of the suspension of the fluvial commerce with Bolivia, that of the international syndicate, that of the Brazilians of Acre, and that of the

sovereignty over the territory occupied by them,—have been settled. Relations purely commercial were first re-established. From the foreign syndicate we legally obtained a declaration absolutely renouncing any and all rights or possible claims against any one whatsoever, in consideration of a pecuniary indemnity incomparably less than the smallest expense which either Brazil or Bolivia would incur on account of a serious international complication. We declared in dispute part of the Acre territory, of the upper Purús and of the upper Juruá, adopting the interpretation most in conformity with the letter and spirit of the treaty of 1867, and with the view most prevalent among us, although it had not until then been the criterion of this Department. We induced Bolivia in a friendly manner to accept a *modus videndi* that allowed us to occupy, militarily and civilly, the territory in dispute, and to intervene as mediator in that which lies to the south, in order to prevent any armed collisions during the negotiations. Finally, after having disposed of all the embarrassing preliminaries, we proceeded amicably and loyally to negotiate with Bolivia, and after careful consideration of the circumstances we arrived at the present compact, which assures great immediate and future advantages to both countries.

By the present treaty Brazil incorporates into its patrimony a territory greater in extent than that of any of the States of Ceará, Rio Grande do Norte, Parahyba, Pernambuco, Alagoas, Serjipe, Espirito Santos, Rio de Janeiro, and Santa Catharina, a territory which produces an annual revenue larger than that of more than half of the twenty States of our Union. We were not, however, inspired by material advantages of any kind. The resources of Acre were long known, and by our compatriots

alone were they explored; nevertheless, the Government always continued to consider the territory as Bolivian and to give to Bolivia all possible facilities for utilizing it. It was necessary that the security of this continent should be menaced by the attempt to introduce the perturbing system of the chartered companies, and that we should be convinced of the impossibility of maintaining the good relations which we so highly value with the Bolivian Nation, so long as there existed under its sovereignty a territory exclusively inhabited by Brazilians who were hostile to it, before we took the steps to obtain the results now accomplished.

In reality the greatest advantages of the territorial acquisition resulting from this treaty are not the material ones. Those of a moral and political order are far higher. Among these it suffices to mention that which is derived from the substantial improvement effected in the conditions of our control over the Amazon fluvial system exactly in the place where the rights of our riparian neighbors are troublesome to us. Being unable normally to administer the region now ceded, to which she had already officially given the name of *Territorio de Colonias*, Bolivia would have been obliged to resort to expedients embarrassing to us, with a view to supply the essential conditions of control which she lacked. Recent examples of this are the decree opening the Acre River to the navigation of the world, and the contracts for the lease of lands which created semi-sovereign entities. The cause having been removed, we need no longer fear the effect.

Of the acquired territory, a part, which lies to the south of latitude $10^{\circ} 20'$, and which, although it represents a smaller area than the other, contains the longest waterway and the richest forest of upper Acre, never was and never could be contested by us with Bolivia. Its area, reckoned by Rear-Admiral Guillobel, according to

the best cartographic materials at our disposal, cannot be less than 48,108 square kilometers.

The part of the territory that lies to the north of $10^{\circ} 20'$, the area of which, according to the same data, was estimated at nearly 142,900 square kilometers, was, as has already been stated, recently declared by us to be in dispute and was claimed as ours. Did it for this reason lose all its value to Bolivia? Certainly not. Moreover, although Brazil was convinced of her solid right, she could not ignore the possibility that the controversy might be decided in favor of the other litigant. To induce this litigant to desist from the contest and cede us his rights, was an advantage of great moment which we could not expect to secure gratuitously. These considerations dispose of the apparent inconsistency between having proclaimed our rights to a part of the territory and then having immediately afterwards acquired it by means of a compensation. There was also another element in the case, viz.: The declaration on our part that the territory was in dispute—which was indeed strictly true, since the national opinion was in reality persuaded of our rights in the territory—this declaration, I repeat, was due to the diplomatic desire to give regularity to our occupation, which was an indispensable condition to the maintenance of peace and the setting on foot of negotiations for a direct agreement, which we finally reached to the advantage of both nations.

What Brazil gives, under the provisions of the present treaty, in order to obtain from Bolivia the cession of a part of her territory and the abandonment of her alleged right over another part, may no doubt be considered as an extremely advantageous compensation, and in fact so it is, but this does not prevent our advantages from being equally great. Arrangements in which neither of the interested parties loses, and still more those in which all gain, are always the best.

In exchange for 142,900 square kilometers of land, which we disputed, and 48,100 of land which was acknowledged as hers—that is to say, in exchange for 191,000 square kilometers—we gave to Bolivia, between the Madeira and Abunan rivers (following the reckoning above referred to), an area of 2,296 square kilometers, which is not inhabited by Brazilians but by Bolivians. If the ground on which we asked of Bolivia the cession of the basin of the Acre, and of the rivers which lie to the west of it, was that these territories were inhabited and cultivated by our citizens, how could we honestly deny to Bolivia a smaller tract inhabited and utilized by her citizens? It was, besides, necessary, in order to maintain the principle that it was not exactly a question of cession, but of exchange, of territories. And it is pertinent to observe that the present treaty does not introduce any innovation. The exchange of territories had already been foreseen and authorized by Article V of the treaty of March 27, 1867.¹

The exchange would, however, have been unjustly unequal, and could not have been accepted by Bolivia if it had consisted in the acknowledgment of our sovereignty over 191,000 square kilometers of land in a state of full and valuable productivity, and the concession to her of scarcely 2,296 square kilometers of land which is at present unproductive. It was, therefore, but natural that our Bolivian opponents should ask other considerable territorial compensations. These we reduced by increasing the pecuniary indemnity at first offered; but this, as has been pointed out, would not have been necessary, if we had agreed to the cession of the right bank of the Madeira from the confluence of the Mamoré to that of the Jamary.

By the treaty the following concessions are granted to Bolivia in addition to that above mentioned:

¹See Note A, *infra*, p. 36.

723 square kilometers on the right bank of the Paraguay River, within the marshy lands known as Bahia Negra;

116 square kilometers on the Caceres lagoon, comprising a strip of land (49.6 square kilometers), which permits the establishment of a more favorable anchorage for commerce than that which was granted to Bolivia in 1867;

20.3 square kilometers, presenting the same conditions, on the Mandioré lagoon;

8.2 square kilometers on the southern margin of the Gahiba lagoon;

The construction of a railway in Brazilian territory connecting Santo Antonio, in the Madeira, with Villa Bella, at the confluence of the Bení and Mamoré;

Freedom of transit on this railway and on the rivers to the ocean, with the corresponding custom-house facilities which she already enjoyed by former treaties;

Finally, the payment of £2,000,000 sterling in two installments.

The concessions intended to facilitate the access of Bolivia to the river Paraguay represent only a small development of the treaty of 1867. By this compact the boundary, which we maintained in the so-called *Serra dos Limites*, was drawn back to the east, with the object of conceding to Bolivia the proprietorship of half of Bahia Negra and of the Caceres, Mandioré, Gahiba, and Uberaba lagoons, so that she could become a riparian nation of the Paraguay, as was advised by Tavares Bastos, Pimenta Bueno (Marquez de S. Vicente), A. Pereira Pinto, and other distinguished Brazilians. It was the intention of the Imperial Government thus to give Bolivia five ports in those lagoons, in communication with the Paraguay River. The Bolivians, however, lost their part of Bahia Negra in 1888, as it was then occupied by the Para-

guayans. In the Caceres lagoon, Bolivia found no point at which she could establish a port. The case proved to be the same on the Mandioré and Uberaba lagoons. Only in the Gahiba lagoon was it found, in a late exploration by Capt. Bolland who was sent thither by General Pando, that there existed sufficient water and facilities for small craft to run in and out, and that it was possible to construct on the western bank a port that had already been planned.

Having learned that the idea of the Imperial Government of 1867 could not be carried out, the Government of the Republic, bearing also in mind the advantage of attracting to Matto-Grosso the commercial traffic of the southeastern region of Bolivia, endeavored in 1896 to find a remedy. To that end, on March 13th of that year, a protocol was framed in the city of Rio de Janeiro, and signed by Messrs. Carlos de Carvalho, Minister of Foreign Relations, and Federico Diez de Medina, Minister of Bolivia, which granted to that Republic, in gratuitous servitude, the place called Tamarindeiro, together with a strip of land on the southern bank of the Caceres lagoon, between Puerto Suarez and Corumba, in order that she might establish there a custom house. This same Tamarindeiro and the strip of land, which we now transfer to Bolivia, constitute the most substantial compensation which the present treaty gives her in the region of the Paraguay.

The construction of the Madeira and Mamoré railway is another great advantage which we offered to the neighboring nation, and happily it is of still more advantage to us. It fulfils the promises made to Bolivia in Article IX of the Treaty of 1867,¹ and solemnly renewed in that of March 15, 1882, of which it was the only object, without asking any territorial compensation. Its construction

¹ See Note A, *infra*, p. 37.

was advised and urged in the time of the Empire by many of our most renowned and far-seeing statesmen, such as Tavares Bastos and the Marquez de S. Vicente, heretofore mentioned, and by Baron Cotegipe, the Viscount Rio-Branco, and others. The conditions on which we now engage to construct it are not urgent.

The term for the completion of the work was virtually left to the good faith of Brazil, who, I am sure, will for this very reason endeavor to fulfil her promises, although she does not assume any material responsibility in case of *force majeure*.

The Argentine Republic and that of Chile, pursuing wise economic policies, are now constructing and are in the future to construct in Bolivian territory railways intended to draw to their littoral the commerce of that neighboring nation. Nevertheless, neither Chile nor Argentina comes in contact with Bolivia through lands so rich as those of the Bení and Madre de Dios, which can have easy communication with Europe and North America only by means of the Madeira and the Amazon. We should be deprived of the great advantage which we derive from being nearer to European and American ports, if we made no effort likewise to profit by the Bolivian transit commerce, by worthily competing for it.

The Madeira and Mamoré railway will undoubtedly be beneficial to the States of Matto-Grosso, Amazon, and Pará. In exchange for some water, marshes, and two-and-a-half leagues of land which are entirely useless to it, and which it relinquishes in the interest of the whole Brazilian nation, Matto-Grosso will gain an important railway constructed by the Union, and enter into commercial relations with the Amazon and northern countries.

Lastly, as there is no equivalency in the area of the territories exchanged, Brazil gives to Bolivia a pecuniary compensation of £2,000,000 sterling, intended for the con-

struction of railways and other improvements which will indirectly be advantageous to us, since they will increase the traffic of our Madeira railway. While the investment of this sum is in itself remunerative, it must also be borne in mind that, according to recognized data, the revenue of the annexed territory is more than a sufficient guaranty for the sacrifice of the Treasury, and will even permit us in a short time wholly to extinguish the entire outlay.

The territory which by the present treaty is assigned to Brazil, and that which passes to Bolivia between the Abunan and the Madeira, are also claimed by Peru. The Brazilian Government, being informed of this fact, more than once assured that of Peru that her possible rights would always be reserved, no matter what the result of the negotiations with Bolivia might be. This is confirmed in Article VIII of the treaty. The pretensions of Peru, however, go far beyond what is generally supposed; they even go so far as to consider as Peruvian a part of the State of Amazonas much more extensive than the territory which was the principal cause of the present treaty. According to Peru's ideas, so far as we know them by recent cartographic documents of official origin, her boundary line with Brazil, from a point a little below the principal source of the Javary, would follow the parallel running through that point on to the left bank of the Madeira. The area comprised between that line, the Madeira, and the oblique Javary-Bení line forms a triangle much larger than the so-called triangle in dispute in Acre, since it embraces not less than 251,330 square kilometers of territory which we have always deemed to be free from any question. Our boundary dispute with Peru, therefore, does not arise from the treaty which we have just concluded with Bolivia.

This is not the occasion on which minutely to set forth our reasons, but, with due respect to the opposing opinion, we have so much confidence in our rights that we cannot entertain any apprehension concerning them.

This is, Mr. President, my opinion relative to the treaty, a copy of which I beg to submit to Your Excellency for the usual proceedings. I believe that it represents, apart from the advantages already described, the best solution of the difficulties which I encountered when I took possession of the office which Your Excellency committed to my care.

The other solutions which have been proposed, more or less publicly, are two:

1. To avail ourselves of the aid of the Brazilians in Acre, in the hope that they might definitely attain their independence and then ask for the annexation to Brazil of the State which they should thus establish and which we would receive into our Union without giving any compensation to Bolivia; or

2. To appeal at once to arbitration for the interpretation of the latter part of Article II of the treaty of 1867, and maintain before the arbitrators the line of the parallel of $10^{\circ} 20'$.

The first proposition, meaning, in fact, a disguised conquest, would lead us into a course of action in contrast with the good faith which the Brazilian Government has never failed to employ in its intercourse with other nations. We should embark on a perilous adventure which would be without precedent in our diplomatic history, and which, because of its slow development, would no doubt give rise to complications and disagreeable surprises, and would for that reason be of uncertain issue.

And the disguised conquest, which we should in violation of the constitution of the Republic thus attempt,¹ would extend not only to the territory which we believe to be ours, but also to that lying to the south, and unquestionably belonging to Bolivia by virtue of the treaty of 1867, which was already in the control of the armed Acreans. For, it must not be forgotten that the Acre problem could and can be solved only on condition that all the territories occupied by our citizens should remain Brazilian. I will add that we are not permitted to affirm that the Acreans would surely be victorious. In the possible event of their not having the better part, their heroic sacrifice would wound and move the national feeling, which would expose us to the risk of being dragged into an inglorious war. These unhappy contingencies might also arise in case the Acreans were victorious and we accepted their proposal of annexation.

The resort to arbitration would involve the inconvenience of delaying four or five years, if not longer, the desired solution; and even if the award of the judge were favorable to us it would not afford a radical or definitive conclusion, since it would not suppress or resolve the difficulties with which the two countries have been struggling since 1899. In appealing to arbitration we should abandon and sacrifice thousands of Brazilians who had in good faith settled to the south of parallel 10° 20'. The arbitrator could grant us only the territory which we had declared to be in dispute to the north of that parallel, while to the south of it lie the greater part of Acre and the most of the Brazilian settlements. During the process of arbitration, these compatriots of ours would continue their conspiracies and revolts against the Bolivian authorities. Political agitation would persist among us in regard to the Acre question, and in Bolivia perhaps the

¹ See Note D, *infra*, p. 42.

temptation of some new lease, with a view to subdue, by means of foreign resources, a population which had shown itself steadfastly hostile to her. And owing to the instability of opinion in some of our political centres, and to the influence which they occasionally might exert on that of the real or apparent majority of the nation, it was impossible to foresee to what decisions we might be led, in moments of patriotic exaltation, by the spectacle of the persistent revolt of these Brazilians or of their final subjugation by sheer extermination.

It is furthermore very likely that the mind of the arbitrator would be influenced less by the arguments which we could adduce than by the constant tradition of thirty-five years, during which the Government of Brazil not only considered as unquestionably Bolivian the territory situated between the oblique Javary-Bení line and the above-mentioned parallel, but also performed, before the demarcation was concluded, positive acts which acknowledged Bolivian sovereignty, agreeing to the establishment of a custom house in Porto Alonso, afterwards Port Acre, and establishing there a Brazilian consulate. I must for myself declare that, with such high interests of the present and future of this nation at stake, I would not deem arbitration advisable, unless a direct agreement was entirely impossible and the arbitration was conducted outside the restrictions of the treaty of 1867 and with special guarantees which it would be difficult for the other party to accept.

A direct agreement was, indeed, the preferable expedient, the most expeditious and the only one that could efficaciously assure an immediate advantage as well to Brazil as to Bolivia. We had recourse to it, and after patient labor we secured its realization in a manner satisfactory and honorable to both countries, solving radically not only all present questions, but also com-

prising in a general conception everything pertaining to our permanent intercourse with Bolivia.

Happily it was not necessary, in order to attain this result, to introduce any innovation into existing rights as between the two countries. The present agreement, as has heretofore been pointed out, is in its essence a simple development and application of that of 1867. There is not, properly speaking, a cession, but a reciprocal exchange of territories of each country inhabited by citizens of the other, precisely as is provided in Article V of the compact of 1867, above mentioned. But, even if we were to describe as a "cession of territories" an exchange by which we give 3,200 square kilometers and receive 191,000, it could not be said that such an act is in itself indecorous, and much less that it is not authorized by the traditions of free peoples having the highest sense of honor in the world, such as the United States of America and Switzerland, and by the juridical and customary precedents of our fatherland. The constitution of the Empire authorized, in Article CII, Paragraph 8, the cession of territory, on condition that it be sanctioned by the General Legislative Assembly. And the principle was not only admitted, but it was carried into effect on several occasions.

By the present treaty, however, we do not lose but acquire territory. Moreover, we make our first territorial acquisition since we became an independent nation.

The decisions of the two disputes, in which I have had the honor to defend the interests of Brazil,¹ did not increase but barely maintained the national patrimony within the limits sanctioned by long-continued affirmations of our rights. Only now have we accomplished true territorial expansion, with the fortunate circumstance that in securing it we do not despoil any neighboring and friendly nation; on the contrary, we liberate her from a

¹ See Note E, *infra*, p. 43.

burden, offering her material and political compensations the equivalency of which has been shown, and which the future will transform into as many bonds of international fellowship.

I assure Your Excellency with all sincerity that I value this work, in which, favored by the steadfast support with which I have been honored, I have had the good fortune to take part under Your Excellency's Government, more highly than the other two which were judged with so much kindness by our compatriots and which I was enabled to accomplish under conditions undoubtedly much more propitious.

Meanwhile the treaty will not be complete till it has received the sanction of the National Congress. Here ends the work of Your Excellency's Plenipotentiaries, and begins the responsibility of the representatives of the Nation.

I have the honor to renew to Your Excellency the assurance of my deepest respect.

RIO-BRANCO.

NOTE A.

TREATY OF FRIENDSHIP, COMMERCE, NAVIGATION, BOUNDARIES, AND EXTRADITION, BETWEEN BRAZIL AND BOLIVIA, SIGNED AT LA PAZ, MARCH 27, 1867: ARTICLES II-IX, INCLUSIVE, AND AN EXPLANATORY NOTE.

.

II. His Majesty the Emperor of Brazil, and the Republic of Bolivia agree in recognizing as a basis on which to determine the boundaries between their respective territories the *uti possidetis*, and, in conformity with this principle, they declare and define the said boundary as follows:

The boundary between the Empire of Brazil and the Republic of Bolivia shall commence at the River Paraguay in latitude $20^{\circ} 10'$, where the Negra Bay discharges its waters; shall pass through the centre of this to the bottom of the bay, and from thence in a straight line to the Lake of Caceres, cutting it through its centre; from thence it shall proceed to Lake Mandioré, cutting it through the middle, as also through the middle of the Lakes Gahiba and Uberaba, in as many straight lines as may be necessary, so that the high lands of the Pedras de Amolar (Grindstones), and of the Insua be on the Brazilian side.

From the extreme north of Lake Uberaba it shall run in a straight line to the southern extremity of Corrixa-Grande, saving the Brazilian and Bolivian towns which are respectively on the side of Brazil or of Bolivia; from the extremity of Corrixa-Grande it shall run in a straight line to the Morro da Boa-Vista, and to the Quatro Irmãos; from these also in a straight line to the sources of the river Verde; it shall

descend with this river to its confluence with the Guaporé, and through the middle of this and of the Mamoré, as far as Bení, where the river Madeira begins.

From this river the boundary shall proceed to the west, by a parallel line taken from its left bank in latitude $10^{\circ} 20'$, until it meets the river Javary.

Should the Javary's sources be to the north of that line, from east to west, the boundary shall run on from the said latitude in a line to seek the principal source of the said Javary.

III. The High Contracting Parties shall each name a Commissioner within the term of six months, reckoning from the exchange of ratifications of the present Treaty; and in the shortest possible time the two Commissioners shall proceed, by common consent, to mark out the divisional line, at those points where it shall be necessary, and in conformity with the stipulations which precede.

IV. If, while marking out the boundary, serious doubts should occur, proceeding from inexactness of the indications given in the present Treaty, these doubts shall be solved amiably by both Governments, to whom the Commissioners shall submit them, the agreement which solves the said doubts being considered as an interpretation of, or addition to, the said Treaty; and it is understood that should any doubts of the kind occur, at any point whatever, the marking out of the line shall nevertheless not cease to be proceeded with in other places which are indicated in the Treaty.

V. If with a view to fix, in any one point or another, boundaries which may be more natural or convenient for either nation, an exchange of territory appear advantageous, this may take place, fresh negotiations being entered into; but going on, nevertheless, with the demarcation of the line, as though such exchange were not to be effected.

In this stipulation is comprised the case of exchange of territory in order to give space to any hamlet or public establishment which may be injured by the too close approximation of the divisionary line.

VI. His Majesty the Emperor of Brazil and the Republic

of Bolivia agree in declaring the communication between the two countries to be free over the common frontier; and the transit of passengers and of luggage over the same exempt from every national or municipal impost, and only subject to the police and fiscal regulations which each of the two Governments will establish in its territories.

VII. His Majesty the Emperor of Brazil permits, as a special favor, the waters of the navigable rivers running through the Brazilian territory, to the ocean, to be free to the commercial navigation of the Republic.

The Republic of Bolivia also reciprocally permits the navigable waters of her rivers to be free to the trade or commercial navigation of Brazil.

It is, however, understood and declared that this navigation does not include that from port to port of the same nation, or the river coasting trade, which the High Contracting Parties reserve for their subjects and citizens.

VIII. The navigation of the river Madeira, from the waterfall of Santo Antonio upwards, shall only be permitted to the two High Contracting Parties, even should Brazil open the said river up to that point to third nations. Nevertheless, the subjects of these other nations shall enjoy the privilege of loading merchandise in Brazilian or Bolivian vessels employed in that trade.

IX. Brazil undertakes to grant at once to Bolivia, under the same police and excise conditions as those imposed on its own subjects, saving the fiscal dues, the use of any road which it may hereafter open from the first waterfall, on the right bank of the river Mamoré, to that of Santo Antonio on the river Madeira, in order that the citizens of the Republic may avail themselves of the means which Brazilian navigation may afford, below the said waterfall of Santo Antonio, for the passage of persons and carriage of merchandise.

.

In testimony whereof, we the undersigned Plenipotentiaries of His Majesty the Emperor of Brazil, and of His Excellency the President *ad interim* of the Republic of

38 Brazil and Bolivia Boundary Settlement

Bolivia, in virtue of our plenary powers, sign the present Treaty, and affix thereto our seals.

City of La Paz de Ayacucho, in Bolivia, this 27th day of March, 1867.

(L. S.) FELIPPE LOPES NETTO.

(L. S.) MARIANO DONATO MUNOZ.

NOTES EXCHANGED BETWEEN THE BRAZILIAN AND BOLIVIAN
PLENIPOTENTIARIES, EXPLANATORY OF ARTICLES II AND
XXVII OF THE ABOVE TREATY (NAVIGATION OF LAKES,
AND DESERTERS).

LA PAZ, September 19, 1867.

M. LE MINISTRE,

As it is expedient to determine the meaning of Articles II and XXVII of the Treaty of Friendship, Boundaries, Navigation, Commerce, and Extradition, which we signed on the 27th March last, in our quality of Plenipotentiaries of Brazil and Bolivia, I consider it my duty to declare, that at the conference which preceded the adoption of the said Treaty, it was understood between us, and it is the intention of our Governments respecting Article II, that notwithstanding the divisional line of the two countries passes through the middle of the Lakes Negra, Caceres, Gahiba, Mandioré, and Uberaba, the navigation of these lakes, as also that of Gahiba-Mirim, is common to Brazil and Bolivia, the right of freely navigating in the waters of each State being, therefore, open to the citizens of each of the High Contracting Parties, so that the police regulations of that navigation are to be determined by agreement between the two Governments.

.

I avail, &c.,

FELIPPE LOPES NETTO.

To his Excellency Dr. D. Mariano Donato Munoz.

[A note to the same effect, and under the same date, was exchanged by the Bolivian Plenipotentiary.]

NOTE B.

“The principles which are applicable to the case are such as are dictated by reason, and have been adopted in practice by European Powers, in the discoveries and acquisitions which they respectively made in the new world: they are principles intelligible, and, at the same time, founded in strict justice. The first of these is, that when any European nation takes possession of any extensive seacoast, that possession is understood as extending into the interior country, to the sources of the rivers emptying within that coast, to all their branches and the country they cover; and to give it a right, in exclusion of all other nations, to the same. It is evident that some rule or principle must govern the rights of European Powers, in regard to each other, in all such cases; and it is certain that none can be adopted in those to which it applies, more reasonable or just than the present one. Many weighty considerations show the propriety of it. Nature seems to have destined a range of territory, so described, for the same society, to have connected its several parts together by the ties of a common interest, and to have detached them from others. If this principle is departed from, it must be by attaching to such discovery and possession a more enlarged or contracted scope of acquisition; but a slight attention to the subject will demonstrate the absurdity of either. The latter would be to restrict the rights of a European Power, who discovered and took possession of a new country, to the spot on which its troops or settlements rested: a doctrine which has been totally disclaimed by all the Powers who made discoveries and acquired possessions in America. The other extreme would be equally improper; that is, that the nation who made such discovery should, in all cases, be entitled to the whole of the territory so discovered. In the case of an island, whose extent was seen, which might be soon sailed round, and preserved by a few forts, it may apply with justice; but in that of a continent, it would be absolutely absurd; accordingly, we find that this opposite extreme has been equally disclaimed and disavowed by the doctrine

and practice of European nations. The great continent of America, North and South, was never claimed by any one European nation, nor was either portion of it. Their pretensions have been always bounded by more moderate and rational principles. The one laid down has obtained general assent.

“This principle was completely established in the controversy which produced the war of 1755. Great Britain contended that she had a right, founded in the discovery and possession of such territory, to define its boundaries, by given latitudes in grants to individuals, retaining the sovereignty to herself from sea to sea. This pretension, on her part, was opposed by France and Spain, and was finally abandoned by Great Britain in the treaty of 1763, which established the Mississippi as the western boundary of her possessions. It was opposed by France and Spain on the principle here insisted on, which of course gives it the highest possible sanction in the present case.”

Messrs. Monroe and Pinckney, Plenipotentiaries of the United States, to Don Pedro Cevallos, Minister of State of Spain, April 20, 1805, concerning the boundary of Louisiana; *Am. State Papers, For. Rel.*, ii, 662, 664.

The statement of the American plenipotentiaries is textually adopted by Phillimore, *Int. Law*, I, § CCXXXVIII; and by Field, *Int. Code*, 2d ed., Art. 75. See, also, Pradier-Fodéré *Droit Int. Public*, ii, § 799, pp. 357-358.

“The Commissioners of the United States on this occasion, in applying the above principle to the claim of their Nation, were careful not to press the doctrine of virtual possession beyond those limits within which the Nations of Europe would be in accord with them. On the authority of the principle above stated, they say, ‘It is evident that by the discovery and possession of the River Mississippi in its whole length, and *the Coast adjoining it*, the United States are entitled to the whole country dependent on that River, the waters which empty into it, and their several branches, *within the limits on that coast.*’ In other words, they maintain that the occupation of the seacoast entitled a Nation to the possession of the inland territory, and of the navigable

rivers included within it; in which position of law all European nations agree."

Twiss, *Law of Nations* (1861), i, § 117, pp. 171-172.

NOTE C.

On July 11, 1901, the Bolivian Government, acting through its Envoy Extraordinary and Minister Plenipotentiary at the Court of St. James, entered, at London, into a contract with an Anglo-American Syndicate, which was incorporated in the United States under the title of "The Bolivian Syndicate of New York City." By this contract, which was approved by the Bolivian Congress, December 20, 1901, and duly published as a law, the Bolivian Government assumed to make to the Syndicate a CONCESSION of important rights, powers, and privileges in the territory of Acre (Aquiry), concerning which the controversy with Brazil was then pending.

"The Syndicate," so the concession declared, was formed for the purpose of "constituting and incorporating" a "company," which was to take over for thirty years, with a privilege of renewal, the "fiscal administration" of the entire territory of Acre, and which was to that end to be invested with "powers," and with "rights, privileges and lands," for its development and "colonization." This company was to be incorporated "in England, or in the United States of North [*sic*] America, or one of such States, or in some other foreign country," and was to have a capital "of not less than £500,000 sterling," in "the currency of the country in which" it should be "incorporated"; and the first privilege it was to possess was the enjoyment for five years of the exclusive right to buy in fee simple lands not already disposed of in the territory.

It was also to possess "all mineral rights" in the territory, the mineral laws of Bolivia meanwhile remaining suspended,—as well as the right to construct and maintain docks, railroads, tramways, telegraphs, electric works, and telephones; and these things it might do either itself, or through other companies which it might constitute, thus exercising the power indefinitely to reproduce itself and to increase the hold of foreign interests.

These vast privileges were, however, but subsidiary to the political and sovereign powers to be exercised by the company.

It was to possess for thirty years "the sole, absolute, exclusive and uncontrolled right, power and authority to collect and enforce payment of" revenues, rents and taxes, subject only to an accounting and division with the Bolivian Government; and, subject only to the provisions of treaties, and of the traffic "of such vessels as now exist," it was to have "the exclusive right to grant concessions for the navigation" of the rivers and navigable waters of the territory.

The Bolivian Government was indeed to be permitted to appoint a representative in the territory to be known as the "national delegate"; but, subject only to the "supervision" of this delegate, whose salary the company was to pay, the company was to "provide and maintain" a "sufficient force of police" for the "protection of the inhabitants" and the enforcement of law and order; and if at any time the Government should think it necessary, the company was to equip and maintain, in addition to the police force, military and naval forces "for the defence of the rivers" and "the preservation of internal order."

Finally, it was stipulated that if, on the expiration of the specified term, the concession should not be renewed "on the same conditions," or on others mutually agreed on, the Government was to "resume" the "administration" of the territory.

As one of the first preliminaries to the amicable settlement of the controversy with Bolivia, the Government of Brazil obtained from the Syndicate, for a sum of money, the absolute renunciation of all its rights and claims under the concession, the effect of which was thus completely nullified.

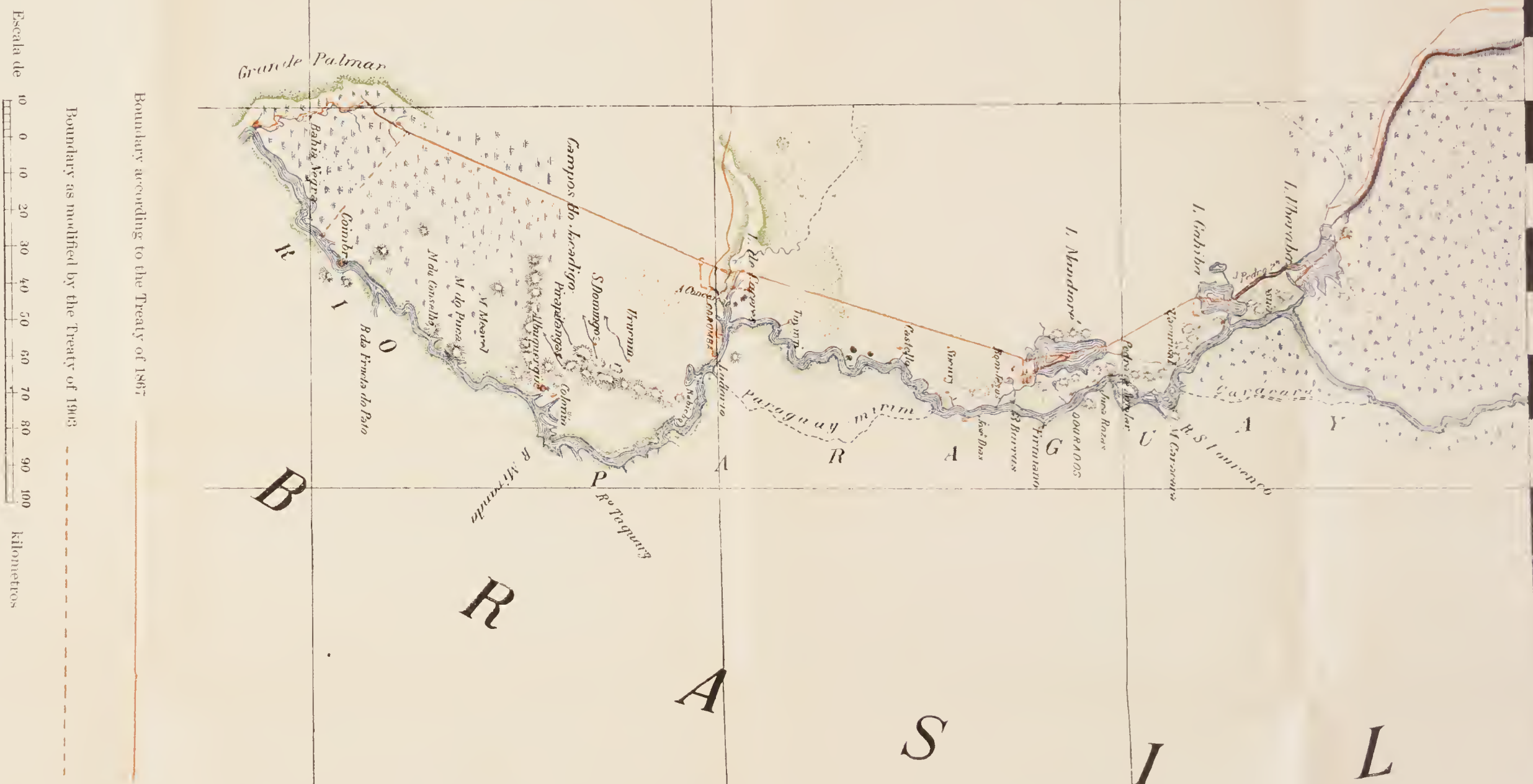
NOTE D.

The Constitution of the United States of Brazil, Title V, Article 88, provides: "The United States of Brazil shall in no case undertake a war of conquest, directly or indirectly, either by themselves or in alliance with another nation."

NOTE E.

By a treaty concluded at Buenos Ayres, September 7, 1889, Brazil and the Argentine Republic agreed to submit to the arbitration of the President of the United States their respective claims to a tract of territory popularly called "Misiones." The dispute as to dominion over this tract grew out of a difference as to the position of two rivers. It was admitted that the divisional line began, at the north, at the river Paraná, opposite the mouth of the Iguaçu, and followed the course of the latter river for some distance eastwardly; that, farther to the south, it followed the course of the Uruguay; and that, between these rivers, it was formed by two connecting or practically connecting streams. But, as to the positions and courses of these connecting streams, the two countries were unable to agree. Brazil maintained that they were two streams called the Santo Antonio and Pepiry-Guaçu. The Argentine Republic said that they were two streams more to the east, called the San Antonio-Guazú and the Pepiry or Pepiry-Guazú. Brazil replied that the streams claimed by the Argentine Republic under these names were really the Chapecó and the Chopim, and that in 1888 the Argentine Republic transferred one of the names still more to the east, finally resting upon the rivers Chapecó and Jangada. The area of the disputed territory was upwards of 30,621 square kilometers, or 11,823 English square miles, or 991.3 geographical square leagues. The treaty of September 7, 1889, stipulated (Art. V) that the boundary should be constituted by the rivers which Brazil or the Argentine Republic had designated, and that the arbitrator should pronounce in favor of the claims of the one or the other party. By the award, rendered at Washington, February 5, 1895, it was declared that the boundary should be constituted by the rivers which Brazil had designated.

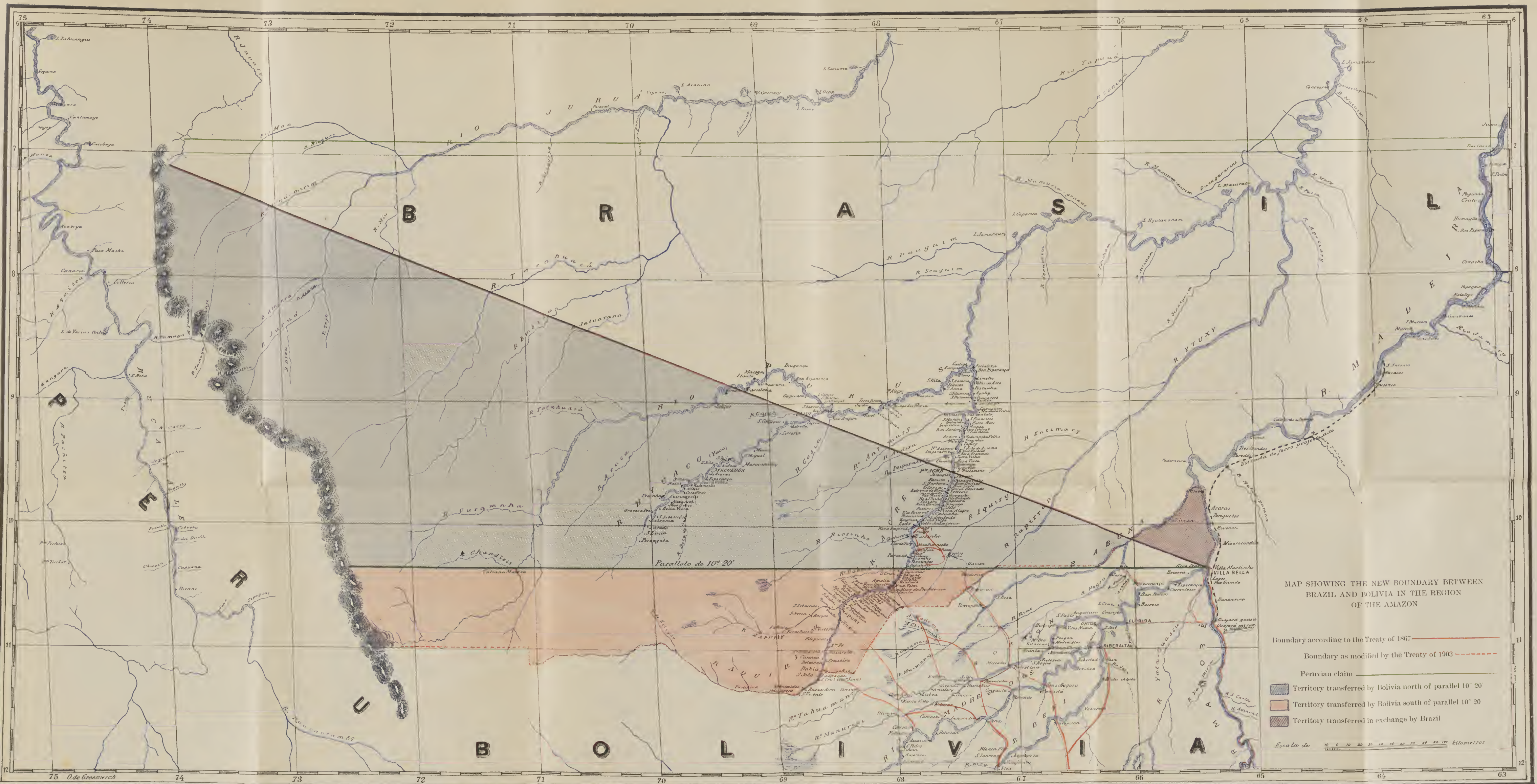
By a treaty signed at Rio de Janeiro, April 10, 1897, the Governments of France and Brazil agreed to submit to the Swiss Federal Council, as arbitrator, their dispute as to the boundary between Brazil and French Guiana. The French



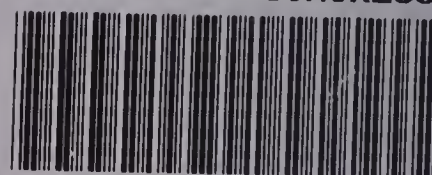
Boundary according to the Treaty of 1867

Boundary as modified by the Treaty of 1903

Escala de
10 0 10 20 30 40 50 60 70 80 90 100
kilometros



LIBRARY OF CONGRESS



0 002 786 044 8